

Surface Mining Reclamation and Enforcement, Interior

§ 902.10

B. ASMC and the Department shall provide each other with copies of any changes to their respective laws, rules, regulations and standards pertaining to the enforcement and administration of this Agreement.

ARTICLE XV: CHANGES IN PERSONNEL AND ORGANIZATION

Each party to this Agreement shall notify the other, when necessary, of any changes in personnel, organization and funding or other changes that will affect the implementation of this Agreement to ensure coordination of responsibilities and facilitate cooperation.

ARTICLE XVI: RESERVATION OF RIGHTS

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A.

Dated: July 16, 1985.

Signed:

George C. Wallace,
Governor of Alabama.

Dated: June 28, 1985.

Signed:

Ann McLaughlin,
Under Secretary of the Interior.

APPENDIX A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and implementing regulations.
2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations including 43 CFR parts 3480-3487.
3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and implementing regulations, including 40 CFR part 1500.
4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations, including 50 CFR part 402.
5. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR part 800.
6. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.
7. The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.
8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.
9. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469 *et seq.*
10. Executive Order 1593 (May 13, 1971), Cultural Resource Inventories on Federal Lands.

11. Executive Order 11988 (May 24, 1977), for flood plain protection. Executive Order 11990 (May 24, 1977), for wetlands protection.

12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*, and implementing regulations.

13. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291 *et seq.*

14. The Constitution of the United States.

15. The Constitution of the State and State Law.

[50 FR 30921, July 30, 1985]

PART 902—ALASKA

Sec.

902.1 Scope.

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AUTHORITY: 30 U.S.C. 1201 *et seq.*

§ 902.1 Scope.

This part contains all rules applicable only within Alaska that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

[48 FR 12889, Mar. 23, 1983]

§ 902.10 State regulatory program approval.

The Alaska State program as submitted on July 23, 1982, and as amended and clarified on December 13, 1982, and January 11, 1983, is approved effective May 2, 1983. Beginning on that date, the Alaska Department of Natural Resources shall be deemed the regulatory authority in Alaska for all surface coal mining and reclamation operations and all exploration operations on non-Federal and non-Indian lands. Only surface coal mining and reclamation operations on non-Federal and non-Indian lands shall be subject to the provisions of the Alaska permanent regulatory program. Copies of the approved program are available at the following addresses:

(a) Department of Natural Resources, Division of Mining and Water Management, 3601 C Street, Suite 800, Anchorage, AK 99503-5925, Telephone: (907) 762-2149.

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(b) Office of Surface Mining Reclamation and Enforcement, Western Regional Coordinating Center, Technical Library, 1999 Broadway, Suite 3320, Denver, Colorado 80202-5733.

[60 FR 33724, June 29, 1995, as amended at 60 FR 54593, Oct. 25, 1995]

§ 902.15 Approval of Alaska regulatory program amendments.

The following is a list of the dates amendments were submitted to OSM,

the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
November 12, 1983 .. May 28, 1985, November 16, 1986, February 24, 1987. February 2, 1990	December 23, 1983 February 22, 1988 .. August 19, 1992	Redesignation of title 11, Ch 90 of the AAC. 11 AAC 90.065(b), .077(d), .331(a)(3), .461(f), .601 (d) through (g), .625, .627(a), (b), .751(a), .907(d), (g); Articles 15 through 17. 11 AAC 90.021(c), .023(a)(1), (2), (3), (b)(1), (2), .025(a)(1), (2), (b), (c), .041(a), (b), .043(b), (c), .045(b)(4), .057, .071(2)(D), .077(b)(5), (11), (d), .081(a)(1), (2), (3), (b), (c), .085(a)(1), (2), (3)(A) through (E), (4), (b)(3), (4), (c)(3), (4), (5)(A) through (D), .089(a), (c), .099(a), .101(c)(1), (2)(A) through (F), (3)(A), (B), (C), (4), (5)(A), (B), (6), .119(d), (e), .121(c), .125(a)(7) through (13), .127(4), (5)(A), (B), (C), (6), .129 (a)(6), (7), (8), .141(a)(1), .163(a)(2) (A) through (G), (b)(2), (3), (c)(1), (2), (3)(A), (B), .173(a)(1), (2), (3), .175(4)(D), .181(a)(5)(A), (B), (6), .185(a)(3), (4), (5), .207(c)(5)(C), .213(g), (h), .323(a) through (d), .325(b), (c), (d)(1), (2), (3), (g)(3), .327(b)(2), .331(b)(1), (2), (3), (c), (d)(2), (3), (4), (e), (f), (g), .333, .336(a), (b)(1), (2), (c)(1) through (9), (d)(1), (2), (3), (e), (f), .337(a), (b), (c)(1) through (7), (d), (e), (g), .338(f) through (7), .343, .345(a), (b)(1) through (5), (c), (d), (e)(1) through (6), (f) through (i), .349(2)(A), .353(a)(1), (2), (3), .371(d)(1) through (4), .373(b), (c), (d), .375(b), (e) through (h), .379(b), (c), (e) through (j), .381(a), (b), .391(b), (e), (g), (i), (k), (l), (m)(1) through (6), (n), (o), (p)(3) through (7), (q), (r), .395(a)(1) through (5), (b), .397(a), (b), (c)(1) through (5), (d) through (g), .399, .401(a), (b)(1), (2), (3), (c), (d), (e), .403, .405, .407(a) through (d), (f) through (i), .409, .435, .441(a), (b), (c), .443(a), (b), (c)(1)(A) through (F), (e)(2), (3), (4), (f) through (k), .451(b)(1), (5), .455(1) through (4), .457(b), (c)(5), .635(a), (b)(1), (2), (c), (d)(1), (2), (3), (e)(1), (2), (3), (f), (g), (h), .703(e), .705(a) through (e), .901(c), .907(b), (i), .911(18) through (21), (51), (110), (118), (122).
January 26, 1995	September 17, 1996	11 AAC 05.010(a)(11)(D), 90.002, .003, .011, .025(a), (b), (c), .045(a), .049(2), (D) through (H), .083(b)(10), (11), (12), (3), (b), (c), .097, .099, .149(d), (1), .163(a), (b), (1), (c), (3)(B), (4), (5), .207(f)(1), (2), (4) through (7), .337(f), .345(e), .375, .391(b), (h), .401(e), .407(e), .409, .423(b), (h), .443(d)(1), (k), .491(a), (1), (6), (7), (8), (c)(4) through (8), (e), (f), .901(e), .907(c) through (h), (j).
December 12, 1996 .. July 30, 1998	March 31, 1997	11 AAC 90.207(f) (3) and (8).
	February 22, 1999 ..	11 AAC 90.002(a), (b), and (c), and 90.011(a) concerning permitting requirements; 90.025(a), (b), and (c) concerning permit application requirements; 90.045(a), 90.049(a), 90.083(b), and 90.097 concerning environmental resource requirements; 90.149(d) concerning alluvial valley floors; 90.163(a) and (d) concerning exploration; 90.207(f) concerning self-bonding; 90.337(f) concerning impoundment inspections; 90.375(f) concerning blasting; 90.391(h) and (s), 90.401(e), and 90.407(e) concerning coal mine waste; 90.423(b) and (h) concerning fish and wildlife; 90.443(d) and (k) concerning backfilling and grading; 90.491(e) and (f) concerning roads; 90.901(e) concerning termination of jurisdiction; 90.907(c) and (j) concerning public availability of information; and 90.911(92) concerning the definition of "road."

[62 FR 9934, Mar. 5, 1997, as amended at 62 FR 15117, Mar. 31, 1997; 64 FR 8514, Feb. 22, 1999]

§ 902.16 Required program amendments

Pursuant to 30 CFR 732.17(f)(1), Alaska is required to submit to OSM by the specified date the following written,

proposed program amendments, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a

timetable for enactment that is consistent with Alaska's established administrative or legislative procedures.

(a) By October 19, 1992, Alaska shall amend its program as follows:

(1) At 11 AAC 90.023(f)(3) by providing ownership and control regulations to meet the requirements of OSM's May 11, 1989, 30 CFR 732 notification.

(2) At 11 AAC 90.045(a) by requiring a description of the geology within the permit and adjacent areas to include the deeper of either the stratum immediately below the lowest coal seam to be mined or any aquifer below the lowest coal seam to be mined which may be adversely impacted by mining per the Federal regulation requirements at 30 CFR 780.22(b)(1) and 784.22(b)(1).

(3) At 11 AAC 90.163(b)(1) by requiring that the operator affirm that a surface coal mining permit application will be submitted in the near future as required at 30 CFR 772.14(b); and by requiring that provisions in an exploration application provide evidence that sufficient coal reserves are available for future use or sale; and that an application for an exploration permit to remove more than 250 tons of coal contain a statement of why extraction of more than that amount is necessary per the requirements of Federal regulations at 30 CFR 772.14(b)(3) and (4).

(4) At 11 AAC 90.181(5)(A), .043, .047 and .089 to include reference to the 17th edition of the Standard Methods for the Examination of Water and Waste Water.

(5) At 11 AAC 90.311(g) by deleting the subsection that provides the commissioner the discretion to authorize an exemption from the requirements for the removal, stockpiling, and redistribution of topsoil and other materials.

(6) At 11 AAC 90.331(a) by defining "other treatment facilities" and to clarify the relationship of "treatment facility(ies)", "water treatment facilities", and "erosion control structures" relative to the term "siltation structure" in a manner that is not less effective than the Federal program requirements. At 11 AAC 90.331(d)(1) to provide for the 10-year, 24-hour precipitation event per the Federal regulation at 30 CFR 816.46(c)(1)(iii)(C).

(7) At 11 AAC 90.337(f) to require that all impoundments be examined on a basis that is no less effective than the Federal requirements at 30 CFR 816.49(a)(11).

(8) At 11 AAC 90.345(e) to require that the surface-water monitoring plan include both upstream and downstream monitoring locations in all receiving bodies of water per the Federal regulation requirements at 30 CFR 780.21(j)(2)(i) and 784.14(i)(2)(i).

(9) At 11 AAC 90.391(h) to require that the regulatory authority approve the placement of coal mine waste disposal in excess spoil fills per the Federal requirements at 30 CFR 816.71(i).

(10) At 11 AAC 90.407(e) to provide for a precipitation event no less effective than the requirements of the Federal regulations at 30 CFR 816.84(b)(2) and the use of at least the 6-hour PMP event for structures meeting the criteria of 30 CFR 77.216(a).

(11) At 11 AAC 90.423(b) to require consultation with Federal and State fish and wildlife agencies prior to making a determination as to whether and under what conditions an operator may continue with mining activities after reporting the presence of a listed endangered or threatened species per the Federal regulation requirements at 30 CFR 816.97(b).

(12) At 11 AAC 90.443(d) allow blending the spoil into the surrounding terrain in non-steep slope areas only, and to require the removal of all vegetative and organic material as a requirement for allowing spoil to be placed on the area outside the mined-out area per the Federal regulation requirements at 30 CFR 816.102(d)(2).

(13) At 11 AAC 90.443(e)(1) to require that spoil in the immediate vicinity of a remining operation be included in the permit area as required at 30 CFR 816.106(b)(1).

(14) At 11 AAC 90.457(c)(3) to require consultation with, and approval by the State forestry and wildlife agencies with regard to the minimum planting and stocking arrangements for areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products postmining land use as required at 30 CFR 816.116(b)(3)(i).

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(15) To resubmit standards for revegetation success per the requirement at 30 CFR 816.116(a)(1).

(16) To resubmit policy statements and/or provide proposed regulations for those items addressed in proposed policy statements A through G in a manner no less effective than the Federal regulation requirements.

(17) To resubmit the proposed petition form that requests termination of an unsuitability designation or provide proposed regulations in a manner that is no less effective than the Federal regulation requirements at 30 CFR 764.13(b).

(b) By November 18, 1996, Alaska shall revise the following rules, or otherwise modify its program, to:

(1) [Reserved]

(2) At 11 AAC 90.321(d), require that water treatment facilities will be operated for as long as necessary, or add a definition of "siltation structure" that is no less effective than the Federal definition of this term at 30 CFR 701.5.

(3) At 11 AAC 90.323(a), replace "siltation structures" with "treatment facilities," or add a definition of "siltation structure" that is no less effective than the Federal definition of this term at 30 CFR 701.5.

(4) At 11 AAC 90.325(a), require that water treatment facilities will be operated for as long as necessary or add a definition of "siltation structure" that is no less effective than the Federal definition of this term at 30 CFR 701.5.

(5) At 11 AAC 90.327(b)(1) and (c), require that "erosion control structures" be used when describing standards for stream channel diversions used to control erosion, and that the terms "water treatment facilities" and "water treatment facility" be retained or provide a definition of "siltation structures" that includes "water-treatment facilities."

(6) At 11 AAC 90.341(b)(2), require that any treatment facility used during the anticipated period of gravity discharge will be consistently maintained, or add a definition of "siltation structure" that is no less effective than the Federal definition of this term at 30 CFR 701.5.

(7) At 11 AAC 90.443(k), require that the topsoil on the area outside the mined-out area in nonsteep slope areas

shall be removed, segregated, stored and redistributed in accordance with its topsoil removal provisions and that the spoil be backfilled and graded on the area in accordance with its provisions concerning performance standards or backfilling and grading, or add provisions to ensure that the disposal of spoil provisions are no less effective than the Federal regulations at 30 CFR 816.102(d) (2) and (3).

(8) At 11 AAC 90.491(f), require the addition of provisions concerning the alteration or relocation of natural stream channels, and structures for perennial or intermittent stream channel crossings that are no less effective than 30 CFR 816.151(d)(5) and (6) and 817.151(d)(5) and (6).

[57 FR 37423, Aug. 19, 1992, as amended at 61 FR 48842, Sept. 17, 1996; 62 FR 15117, Mar. 31, 1997; 64 FR 8514, Feb. 22, 1999]

§ 902.20 Approval of Alaska abandoned mine land reclamation plan.

The Alaska Reclamation Plan, as submitted on August 17, 1983, is approved effective December 23, 1983. Copies of the approved plan are available at:

(a) Department of Natural Resources, Division of Mining and Water Management, 3601 C Street, Suite 800, Anchorage, AK 99503-5925, Telephone: (907) 762-2149.

(b) Office of Surface Mining Reclamation and Enforcement, Western Regional Coordinating Center, Technical Library, 1999 Broadway, Suite 3320, Denver, Colorado 80202-5733.

[60 FR 33724, June 29, 1995, as amended at 60 FR 54593, Oct. 25, 1995]

§ 902.25 Approval of Alaska abandoned mine land reclamation plan amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Surface Mining Reclamation and Enforcement, Interior

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Original Amendment submission date	Date of final publication	Citation/description
May 28, 1992	November 16, 1992	Emergency response reclamation program.

[62 FR 9935, Mar. 5, 1997]

PART 903—ARIZONA

Sec.

903.700 Arizona Federal program.

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903.702 Exemption for coal extraction incidental to the extraction of other minerals.

903.707 Exemption for coal extraction incidental to government-financed highway or other construction.

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903.761 Areas designated unsuitable for surface coal mining by act of Congress.

903.762 Criteria for designating areas as unsuitable for surface coal mining operations.

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903.772 Requirements for coal exploration.

903.773 Requirements for permits and permit processing.

903.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

903.775 Administrative and judicial review of decisions.

903.777 General content requirements for permit applications.

903.778 Permit applications—Minimum requirements for legal, financial, compliance, and related information.

903.779 Surface mining permit applications—Minimum requirements for information on environmental resources.

903.780 Surface mining permit applications—Minimum requirements for reclamation and operation plan.

903.783 Underground mining permit applications—Minimum requirements for information on environmental resources.

903.784 Underground mining permit applications—Minimum requirements for reclamation and operation plan.

903.785 Requirements for permits for special categories of mining.

903.795 Small operator assistance program.

903.800 Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs.

903.815 Performance standards—Coal exploration.

903.816 Performance standards—Surface mining activities.

903.817 Performance standards—Underground mining activities.

903.819 Special performance standards—Auger mining.

903.822 Special performance standards—Operations in alluvial valley floors.

903.823 Special performance standards—Operations on prime farmland.

903.824 Special performance standards—Mountaintop removal.

903.827 Special performance standards—Coal preparation plants not located within the permit area of a mine.

903.828 Special performance standards—In situ processing.

903.842 Federal inspections.

903.843 Federal enforcement.

903.845 Civil penalties.

903.846 Individual civil penalties.

903.955 Certification of blasters.

AUTHORITY: 30 U.S.C. 1201 *et seq.*

SOURCE: 60 FR 18716, Apr. 12, 1995, unless otherwise noted.

§ 903.700 Arizona Federal program.

(a) This part establishes a Federal program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and applies to all coal exploration and surface coal mining and reclamation operations in Arizona conducted on non-Federal and non-Indian lands. To the extent required by 30 CFR Part 740, this part also applies to surface coal mining and reclamation operations on Federal lands in Arizona.

(b) Some rules in this part cross-reference pertinent parts of the permanent program rules in this chapter. The full text of a cross-referenced rule is in the permanent program rule cited under the relevant section of the Arizona Federal program.

(c) The following provisions of Arizona law generally provide for more stringent environmental control and regulation of some aspects of surface coal mining and reclamation operations than do the provisions of the Surface Mining Control and Reclamation Act of 1977, and the regulations in this chapter. Therefore, pursuant to section 505(b) of the Act, OSM will not generally construe such laws to be inconsistent with the Act, unless in a particular instance OSM determines that the rules in this chapter establish